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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,866	11/21/2003	David Paul Limont	MS#303717.01 (5221)	3063
38779                      7590                      05/30/2008 SENNIGER POWERS LLP (MSFT) ONE METROPOLITAN SQUARE, 16TH FLOOR ST. LOUIS, MO 63102				
EXAMINER MIRZADEGAN, SAIED S				
ART UNIT 2144		PAPER NUMBER		
NOTIFICATION DATE 05/30/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/719,866	<b>Applicant(s)</b> LIMONT ET AL.
<b>Examiner</b> SAEED S. MIRZADEGAN	<b>Art Unit</b> 2144

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-21 and 23.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☒ Other: See Continuation Sheet.

/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2144

Continuation of 11, does NOT place the application in condition for allowance because:

1. Applicant argues Reed does not teach "not sending the sync notification to the client device, if the state of the client device indicates the client device is not in the up-to-date state prior to the received notification". The applicant further argues that Reed teaches the sending of and receiving of acknowledgements, not notifications. The applicant also argues that neither Reed, Border or Lemke, alone or in combination, discloses or makes obvious determining a state of the client device, said state indicating whether or not the device has outstanding sync notifications as recited in claim 1.

2. The Examiner's position is that there does lay support within Reed to reject the claims as follows. Reed discloses ([¶0032] lines 1-6) that the state of client device is being determined by the determination of whether the information has been updated or not which requires comparison between the versions. If the device is not up-to-date and the versions are not the same, it indicates that there has not been an update which would indicate that the device has outstanding sync notifications. Reed further discloses sending the sync notification to the client device ([¶0291] lines 45-48, the appropriate action (sync notification) is sent to the client), if the state of the client device indicates the client device is in the up-to-date state prior to the received notification ([¶0209] lines 14-20, not having a newer version indicates being up-to-date thus there are no outstanding sync notifications); and not sending the sync notification to the client device ([¶0291] lines 45-48, the appropriate action of deletion or inactivation of the recipient instance), if the state of the client device indicates that the client device is not in the up-to-date state prior to the received notification. ([¶0210] lines 1-9, a newer version value indicates not being up-to-date thus there are outstanding sync notifications). In as Thus it is the Examiners position that the 35 USC 103 rejection is proper.

3. The Examiner would also like to point out that the applicant is presenting arguments and contradicting itself at the same time as is evident by statements on page 8, line 14, which states "Reed merely teaches the sending and receiving of acknowledgments, NOT notifications; and page 8, lines 11-12 which states "Reed teaches further user notification could be triggered, as well as other appropriate actions designated by the provider".

Continuation of 13, Other: Amendments to Claims 13 & 21 are sufficient to overcome the Claim Objections and the Amendment to Claim 23 is sufficient to overcome the 35 U.S.C. 112 2nd Rejection of Claim 23.